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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort.	Rulemaking 21-03-011

ADMINISTRATIVE LAW JUDGE'S RULING DISTRIBUTING WORKSHOP AGENDA AND PROVIDING QUESTIONS FOR ADDITIONAL POST WORKSHOP COMMENTS

This ruling confirms that the second workshop in Phase 1 of the Provider of Last Resort (POLR) proceeding will take place on Monday, March 7, 2022. In addition, this ruling distributes an agenda for the workshop, and sets forth questions on which parties may comment during the workshop, as well as in written comments after the workshop.

1. Workshop Subject and Purpose

The purpose of this workshop is to discuss the proposed framework for considering the objectives of Phase 1 of POLR. Workshop 1 focused on an overview of the existing rules and procedures that define investor-owed utility (IOU) operations in their current role as a POLR.

In Workshop 2, parties will have an opportunity to expand on the issues and recommendations set forth in their prior comments. In addition, the workshop will focus more directly on some of the areas identified in Workshop 1 in which the current rules and procedures may be insufficient to support POLR responsibilities. There will also be a roundtable discussion to allow parties to provide additional perspective on unresolved issues in

Phase 1, offer proposals on how to proceed, and comment on next steps.

The topics addressed in Workshop 2 focus on development of a framework for POLR responsibilities and operations. Additional issues, including modifications to the Financial Security Requirements, reentry fees and deregistration process will be addressed by a subsequent ruling.

2. Agenda

An agenda for Workshop 2 is attached to this ruling as Attachment 1. As noted above, the purpose of this workshop is to explore potential new policies or safeguards needed to ensure an entity has the resources and stability to function as a POLR consistent with Senate Bill (SB) 520. The agenda focuses on some of the core issues that parties have identified to date in the proceeding. Parties should be prepared to discuss these issues, and possible solutions to problems raised, including proposals from the earlier rounds of comments.

3. Topics to be Considered at the Workshop and Questions

To prepare for the workshop, we encourage parties to consider the following questions. Parties may file comments on the workshop discussion and written responses to the below questions no later than March 28, 2022.

3.1. Proposed POLR Framework

Energy Division will present a proposed framework for Phase I of the POLR proceeding, attached to the workshop agenda.

a. Does Energy Division's proposed framework accurately capture the core problem statement and set of issues that need to be addressed in Phase 1? If not, what needs to be changed or considered?

3.2. Definition of POLR Service

Currently, the law requires IOUs to function as POLRs for electric service. CalCCA and the IOUs propose that the POLR service be defined as distinct from a default provider and distinct from bundled service, with POLR service being limited to a specified period of time.

a. Should POLR service be for a limited specified period of time, or should the POLR be deemed the default provider with a limited time period for transition from POLR service to bundled service?

b. What are the pros and cons of implementing a short-term transition service?

c. What are the pros and cons of implementing a POLR that is deemed the default provider with a limited time period for transition from POLR service to bundled service?

d. To the extent that you advocate for POLR to be defined as a short-term service, please provide a detailed description of how the POLR system would operate.

- How long would service from the POLR last, or what limit would there be for the duration of POLR service?
- How is the long term provider of service determined?
- What happens if the IOUs are the only viable long term provider?

e. Given the wide range of conditions under which customers could be returned to a POLR, what other changes, if any, should be considered to support the POLR in providing service and ensure that a reliable long term provider is available to serve customers through bundled service or other options?

3.3. POLR Liquidity Needs

The IOUs identified the need for liquidity as a means to procure significant resources in a short amount of time. The following questions are presented in response to this issue raised by the IOUs.

a. What is the liquidity need, if any for the POLR to provide for various levels of return of customers?

b. What options are available to provide sufficient cash flow for a mass transfer of customers to the POLR? What options other than significant cash flow are available to the POLR in the event of a mass transfer of customers?

c. Pacific Gas and Electric Company (PG&E) proposed an insurance pool similar to the plan put together in the Wildfire Proceedings. How would an insurance pool work for purposes of POLR? For example,

- What level of insurance would need to be available?
- What would be the source of funds for the pool/who should contribute?
- Who would manage the insurance pool?
- Where would the funds be held?
- In what circumstances would the insurance pool be drawn upon?
- How would it be replenished if it is drawn upon?
- Would such a fund require statutory authorization?

d. What other options may be available to provide liquidity, and how would those work?

3.4. Resource Availability

The Public Advocates Office (Cal Advocates), Small Business Utility Advocates, Utility Consumers’ Action Network (UCAN), Solar Energy Industries Association (SEIA), and Large-scale Solar Association (LSA) consider contract reassignment to be a key solution to ensure continuity of service. California Community Choice Association (CalCCA) and the IOUs state that these clauses are unnecessary, may not be legal, and may negatively impact load serving entities (LSEs). The following questions are provided in responses to these issues raised by Cal Advocates, UCAN, SEIA and LSA.[1]

a. How would novation or "Right of First Refusal" (ROFR) clauses impact LSEs' costs, the risk profile and/or abilities to enter contracts? LSEs, please indicate whether you have experience in negotiating ROFR clauses, and if so, describe your experiences and what trends you observed in terms of impacts to contract price.

b. Would contract reassignment, novation, or ROFR clauses help to maintain continuity of service during a mass return or other extreme conditions, and if so, how? How would they affect the POLR's ability to meet the compliance requirements for returning customers?

c. In what way would contract reassignment, novation, or ROFR clauses affect procurement or related costs to the POLR of serving returned customers?

d. Should non-IOU LSEs be required to carry energy hedges that are transferrable to the POLR in the event of a mass customer return?

e. Could the existing Capacity Allocation Mechanism (CAM) and Voluntary Allocation and Market Offer (VAMO) resources be used to meet POLR needs, and if so how?

f. If novation/ROFR is not an option, what alternative solutions should be considered to ensure that contracted resources (both under development and operational) are available at a reasonable price ? As opposed to direct regulatory requirements, could incentives be created that would encourage ROFR clauses to be included in contracts? If proposing an alternative to contract assignment, please include a detailed description of how the proposed mechanism would operate to ensure adequate resources.

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[1] Parties may include reference to statutory, case law, or other legal support for their responses to questions.

3.5. Risk Management and Financial Monitoring

a. Parties provided a variety of recommendations to monitor the financial status of Community Choice Aggregators (CCAs.) The following questions are provided to further explore these recommendations.

b. The IOUs, CalCCA, and Cal Advocates propose that financial monitoring of CCAs could help identify CCAs with financial problems, facilitating an early response to those problems to help maintain market stability.

- What benefits would such monitoring provide?
- What kinds of financial information should CCAs report? Should reports be limited to publicly available information, or should additional confidential reports containing confidential information be provided? Be specific about the types of information, you recommend.
- How should the financial reporting be utilized?

c. UCAN argues that some sort of regular and/or trigger-induced financial reporting should be required from LSEs to monitor potential failure.

- Should reporting requirements be established based on specific triggers, and if so, what triggers?

d. CalCCA proposes that the financial reporting requirements should occur through upgraded requirements to the implementation plans.

- What if any critical financial or other standards should a CCA be required to meet during the Implementation Phase, as a condition of receiving approval to begin serving customers?
- Would financial reporting requirements in implementation plans be established for the Implementation Phase of new CCAs only, or for all CCAs?

4. Schedule

The March 7, 2022 workshop will be a fully remote workshop, with all participation by Webex.

WebEx connection information

Webinar Link :

https://cpuc.webex.com/cpuc/j.php?MTID=m190ce63210c12c4ee90f83b39cd3b44f

Webinar Number (access code): 2487 694 4591

Webinar Password: tYwsrib3M87 (89977423 from phones)

To join by telephone:

1-855-282-6330 United States Toll Free

1-415-655-0002 United States Toll

The workshop will not be part of the formal record of the proceeding. For this reason, the schedule below provides an opportunity for parties to file comments on the information presented in the workshop as well as the questions presented above.

Activity	Date
Workshop	March 7, 2022 9 a.m. to 3 p.m.
Comments on workshop and responses to questions presented	March 28, 2022
Reply to all previous comments, and responses to questions	April 15, 2022
Additional Activities	Schedule TBD

IT IS SO RULED.

Dated February 24, 2022, at San Francisco, California.

/s/ JESSICA T. HECHT

Jessica T. Hecht
Administrative Law Judge

(ATTACHMNET 1)

Agenda for Provider of Last Resort Workshop #2

https://cpuc.webex.com/cpuc/j.php?MTID=m190ce63210c12c4ee90f83b39cd3b44f

Monday, March 7, 2022 9:00 AM | (UTC-08:00) Pacific Time (US & Canada) | 7 hrs

Webinar number (access code): 2487 694 4591

Webinar password: tYwsrib3M87 (89977423 from phones)

1-855-282-6330 United States Toll-Free

Workshop Purpose: Provide overview and status update for Phase 1 of the proceeding; Energy Division Staff proposed POLR framework; and discussion of party comments

9:00-9:15 Introduction and Opening Remarks

- *Darcie L. Houck, Commissioner CPUC*

Morning Session: POLR Role in Continuity of Service Under Constrained Market Conditions

9:15-9:45 Roundtable Discussion: ED Proposed POLR framework

Energy Division will present the attached Energy Division Staff Proposed Phase 1 POLR Framework.

1. Does Energy Division's proposed framework accurately capture the core problem statement and set of issues that need to be addressed in Phase 1? If not, what needs to be changed or considered?

9:45-10:35 Definition of POLR Service

Parties will discuss the current process and definition for how IOU serves as POLR and what changes may be necessary to ensure the IOU can serve returning customers under all conditions.

1. What are the existing POLR service requirements as currently implemented by IOUs?

2. What changes are needed, if any, to ensure the IOU can provide POLR service under all conditions?
3. Are the current timelines in the IOU tariffs for service of returning customers sufficient?

10:35-10:45 Break

10:45-Noon Roundtable Discussion: Resource Availability

In the event of failures of one or several LSEs the resources under their contractual control become at risk of default and resource adequacy may be threatened. The Small Business Utility Advocates (SBA), Utility Consumers' Action Network (UCAN), Solar Energy Industries Association (SEIA), and Large-scale Solar Association (LSA) consider contract reassignment to be a key solution to ensure continuity of service. California Community Choice Association (CalCCA) and the IOUs state that these clauses are unnecessary, may not be legal, and may negatively impact LSEs.

1. Should the POLR be required to assume the failed LSE resource contracts? How would novation or "Right of First Refusal" clauses impact LSEs costs and/or abilities to enter contracts? How would it impact the POLR? Are there legal implications?
2. SEIA/LSA indicated that contract assignment would be beneficial in lowering the risk profile of potential agreements. Can this be expanded upon, and how is risk considered when finalizing a deal with a CCA?
3. What alternative solutions should be considered to ensure that contracted resources (both under development and operational) continue to be delivered in CAISO service territory in the event of LSE failure? For instance,
    a. Are there alternative approaches that would give the POLR the right to purchase output from these contracts at the LSE's cost?
    b. Could existing CAM and VAMO resources be used to meet POLR needs?

Noon – 1:00 LUNCH

Afternoon Session

1:00-2:00 Roundtable Discussion: POLR Liquidity Needs

The investor-owned utilities (IOUs) identified the need for liquidity as necessary toward meeting reliability if a mass amount of customers require POLR service and/or return to bundled service. PG&E proposed an insurance pool similar to the plan put together in the Wildfire Proceedings

1. Could the POLR require additional cash flow, in excess of the financial security requirements, to maintain its liquidity? If so, what scale of liquidity may be needed?
2. If additional liquidity is needed, is an insurance pool as proposed by PG&E a reasonable option? How would an insurance pool work? How much should it be, who should contribute, where are funds held, how is it drawn upon and how would it be replenished if it is drawn upon?
3. What other options may be available to provide liquidity to an IOU?

2:00-3:00 Roundtable Discussion: Financial Monitoring of CCAs

Parties provided a variety of recommendations to monitor the financial risk of CCAs through reporting, to provide situational awareness about at-risk CCAs, to help support orderly transitions and prevent disruptions to the electric market.

1. Should a CCA and ESPs be required to meet certain critical safeguards during the Implementation Phase before serving customers?
2. Should reporting requirements be established based on specific triggers, and if so, what triggers?
3. What kinds of financial information should CCAs report? Should reports be limited to publicly available information, or should there be additional confidential reports containing confidential information, like hedged energy positions? Alternatively, what information could be reasonably provided by CCAs and ESP to provide notice of critical circumstances?

3:00-3:15 Final Remarks

ATTACHMENT: Energy Division Staff Proposed Phase 1 POLR Framework

Problem Statement:

Meeting the state reliability needs and GHG emission reduction targets depends on each LSE meeting its procurement requirements established in the IRP, RA, and RPS proceedings. If one or more LSEs fails, under current law, the IOUs serve as POLR, and the POLR must assume the load of the returning customers. The POLR is required to ensure continuity of service regardless of the size of the customer return or the market conditions. The POLR must ensure that it can recover its costs in a manner that avoids shifting new costs onto bundled customers and ensure that state reliability and greenhouse gas compliance programs are maintained and on track.

Energy Division staff believe the conditions in which LSEs are most likely to fail are during a major, prolonged capacity shortfall. Under these conditions, all LSEs, including those outside of CAISO territory, are competing for the few remaining resources, leading to price spikes and rolling blackouts. If the LSE fails and the POLR is not readily able to secure the resources needed to serve the returning customers, not only will the procurement costs spike for returning customers, but the capacity shortfall will continue, impacting the costs for everyone. In a worst-case scenario, the conditions could lead to additional LSE failures. The POLR must be able to both ensure service to the returning customers, and ensure that in a capacity shortfall, sufficient resources are procured to restabilize the market.

Objectives of Phase I of POLR:

a. Ensure that the POLR can recover its costs to avoid shifting new costs onto bundled customers
b. Ensure that state reliability and greenhouse gas compliance programs are maintained and on track.

   c. Develop an emergency plan to ensure the continuity of electric service in such conditions.
   d. Consider actions to minimize the risk of a catastrophic failure occurring in the first place

<u>Phase I POLR Workplan:</u>

1. Establish new policies to plan for extreme market conditions:
   a. **Continuity of Service Plan:** Develop an emergency plan to ensure POLR's ability to provide electric service under extreme conditions
   b. **Risk Management Plan:** Provide awareness and response to financial stresses, including potential bankruptcies, to enable actions to be taken in time to support an orderly transition and minimize the potential impact of an LSE failure on the energy market.
2. Review and update existing procedures and policies for returning customers to the POLR under "normal" conditions—in which the IOU is readily able to absorb the load without additional support
   a. **LSE Deregistration Process & Compliance Requirements:** Establish the process to ensure procurement compliance requirements are met
   b. **Financial Security Requirements/Reentry Fees:** Review the current framework and methodology to consider whether it avoids cost-shifting and if the FSR provides the proper collateralization required to cover reentry fees.

Review and update of existing procedures will be addressed in a subsequent ruling.

(END ATTACHMNET 1)